

EDOK Criminal Complaint (Revised 6/13)

United States District Court

EASTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

HUNTER CALEB SPENCE,

Defendant.

CRIMINAL COMPLAINT

Case No. 21-MJ-318-KEW

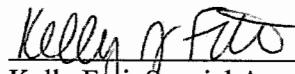
I, Kelly Foti, the undersigned complainant, am a Special Agent with the Federal Bureau of Investigation and state that the following is true to the best of my knowledge and belief:

On or about October 28, 2020, in the Eastern District of Oklahoma, in Indian Country, Hunter Caleb Spence, committed the offense of Involuntary Manslaughter in Indian Country in violation of Title 18, United States Code, Sections 1112(b), 1151, and 1152.

This complaint is based on the following facts:

(See Affidavit of Kelly Foti which is attached hereto and made a part hereof by reference.)

☒ Continued on the attached sheet.

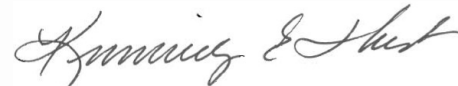


Kelly Foti, Special Agent
Federal Bureau of Investigation

Sworn to before me and subscribed in my presence at: MUSKOGEE, OKLAHOMA

Date: July 27, 2021

UNITED STATES MAGISTRATE JUDGE
Name and Title of Judicial Officer



Signature of Judicial Officer
KIMBERLY E. WEST
U.S. Magistrate Judge



**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Kelly Foti, (Affiant), a Special Agent with the Federal Bureau of Investigation (FBI),
being duly sworn, depose and state as follows:

INTRODUCTION

1. I am a Special Agent with the Federal Bureau of Investigation (FBI) and have been a Special Agent since January 2020. As part of my duties, I investigate violations of federal law, including white collar crimes, violent crimes against children, Indian country crimes, and money laundering. I have gained experience in the conduct of such investigations through training in seminars, classes, and everyday work related to conducting these types of investigations. As a federal agent, I am authorized to investigate violations of laws of the United States and to execute warrants issued under the authority of the United States. I have personally participated in the execution of search warrants. I am authorized to obtain and execute federal arrest, search and seizure warrants. As a Special Agent with the FBI, I am a law enforcement officer of the United States as defined by 18 U.S.C. § 2510(7), meaning that I am empowered by law to conduct investigations of and to make arrests for violations of Federal law, including violations of the Major Crimes Act (MCA).

2. The statements contained in this Affidavit are based in part on information provided by other agencies; written reports about this and other investigations that I have received, directly or indirectly, from other law enforcement agents; independent investigation; and my experience, training, and background as a Special Agent with the FBI. Because this Affidavit is being submitted for the limited purpose of establishing probable cause to believe that HUNTER CALEB SPENCE, committed the below-described offense, I have not included every detail of the investigation. In addition, unless otherwise indicated, all statements contained in this Affidavit

are summaries in substance and in part. The following is true to the best of my knowledge and belief.

PROBABLE CAUSE

3. As will be shown below, there is probable cause to believe that HUNTER CALEB SPENCE (SPENCE), committed one count of Title 18 United States Code, Sections 1112, 1151 and 1152.

4. VENUE: the facts and circumstances alleged in this affidavit occurred within the Eastern District of Oklahoma. More specifically, based on the Supreme Court decision in *McGirt v. Oklahoma (2020)*, the below described location is within the geographic boundaries of the Choctaw Nation Reservation, and therefore is within Indian Country.

5. DEFENDANT: the defendant is HUNTER CALEB SPENCE, Date of Birth XX/XX/2002, hereinafter referred to as SPENCE.

6. VICTIM: the victim is Jayden Ray Hobbs, Date of Birth XX/XX/2001, hereinafter referred to as HOBBS, is a registered citizen of the Choctaw Nation.

7. Affiant received information regarding a crime which occurred in LeFlore County, Oklahoma within the boundaries of the Choctaw Nation Reservation and in Indian Country. This affidavit is made in support of a Complaint and Arrest Warrant for a crime in violation of Title 18 United States Code, Sections 1112, 1151 and 1152. In support of this request, I submit the following:

8. On or about October 28, 2020, around 5:43 P.M., a single vehicle crash occurred on United States Highway 270, west of the town of Wister, Oklahoma. SPENCE was driving a 2009 Nissan Sentra and HOBBS was in the front passenger seat. SPENCE attempted to pass a feed truck that was in the eastbound lane and another vehicle was in the westbound lane. The Nissan departed the roadway to the left and rolled. HOBBS was ejected from the vehicle, suffered mortal

wounds and died.

9. Oklahoma Highway Patrol Trooper Matthew Dryer, hereinafter referred to as DRYER, was dispatched to the crash scene at approximately 5:43 P.M. Trooper Kyle Ward and Trooper Wes Odom were also on scene. On scene, SPENCE admitted to DRYER that he had smoked a bowl of weed prior to driving that day. SPENCE agreed to willingly give blood for a blood test. LeFlore County Emergency Services performed the blood draw. SPENCE agreed to perform a series of tests to determine if he was under the influence. Due to rain and emergency lights, SPENCE was transported to Poteau Police Department for the evaluations.

10. At approximately 7:54 P.M. Poteau Police Officer Brandon McDaniel, a Drug Recognition Expert (DRE), performed the evaluation.

11. Prior to conducting the evaluation, SPENCE was advised of his Miranda Warnings and he acknowledged and signed the Miranda waiver. SPENCE took a preliminary breath test and the result was 0.00. MCDANIEL observed that SPENCE'S coordination appeared to be poor, speech was low and raspy, breath was normal, and his face appeared dazed. MCDANIEL observed that SPENCE'S eyes appeared bloodshot, watery, and had a reddened conjunctiva. SPENCE'S eyelids appeared droopy and his pupils were equal in size but were larger than normal. SPENCE'S pupils measured at 6.0mm in normal room light, the average pupil size is 2.5- 5.0 mm. During the field sobriety tests administered SPENCE exhibited impaired motor coordination and inability to perform divided attention tasks as instructed.

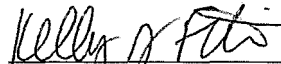
12. SPENCE admitted to MCDANIEL that he had smoked marijuana three times on October 28, 2020. SPENCE stated that he smoked approximately one gram around 9:40 A.M., he smoked around 1:20 P.M. and he smoked marijuana approximately 2 hours before the crash. SPENCE stated that the strain of marijuana that he smoked was known as "Purple Peak" or "Purple Widow" which SPENCE stated was a 23% Indica Strain.

13. At the completion of the DRE evaluation Officer Brandon McDaniel, concluded *“In my opinion as a certified Drug Recognition Expert, Hunter C Spence, is under the influence of cannabis and is unable to operate a vehicle safely”*.

14. On or about October 28, 2020, Trooper DRYER arrested SPENCE and transported him to LeFlore County Jail. The blood draw was sent to the Oklahoma State Bureau of Investigation (OSBI) Forensic Science Center for evaluation. OSBI Lab Report Number 2020-013989 confirmed the presence of 11-hydroxy-delta-9-tetrahydrocannabinol (Hydroxy-THC) and Tetrahydrocannabinols (THC) in SPENCE’S blood.

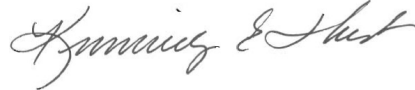
Based on a review of this case, and based on my knowledge and experience, I, as your Affiant have probable cause to believe HUNTER CALEB SPENCE, committed the crime of Manslaughter, in violation of Title 18 United States Code, Sections 1112, 1151 and 1152.

Respectfully Submitted,



Kelly Foti, Special Agent
Federal Bureau of Investigation

Sworn and subscribed this 27th day of July 2021.



UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF OKLAHOMA